

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
Filing Date: 08/30/2016

AUG 30 2016

Shawn R. Carter, Executive Officer/Clerk
By: Cristina Grijalva, Deputy

MICHAEL N. FEUER, City Attorney, SBN 111529
ARTURO A. MARTINEZ,
Deputy Chief, Safe Neighborhoods & Gang Div., SBN 180355
JONATHAN CRISTALL,
Supervising Assistant City Attorney, SBN 191935
LIRA FORMAN-ECHOLS,
Assistant Superv. Deputy City Attorney, SBN 184135
JENNIFER VARELA, Deputy City Attorney, SBN 216189
200 N. Main Street, Suite 966, Los Angeles, California 90012
Telephone: 213.978.4090 / Fax: 213.978.4670
E-Mail: Jennifer.Varela@lacity.org

Attorneys for Plaintiff

NO FEE – GOV'T CODE §6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs.

GERALDINE SCHOENFELD also known as JERI
SCHOENFELD, as trustee of the ALBERT AND
GERALDINE G. SCHOENFELD TRUST DATED
JULY 23, 2012; JARED JASON LERNER, an
individual; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: BC 7 1 9 7 5 4

COMPLAINT FOR ABATEMENT
AND INJUNCTION

[HEALTH & SAFETY CODE SECTION
11570, ET SEQ.]

(Unlimited Action)

PLAINTIFF, THE PEOPLE OF THE STATE OF CALIFORNIA, alleges as follows:

I. INTRODUCTION

1. This action ("Action") is brought and prosecuted by Plaintiff, the People of the State of California (the "People"), for the purpose of abating, preventing and enjoining a narcotics-related public nuisance that exists at a single family dwelling located in Studio City, with an address commonly known as 11933 Ashdale Lane, Studio City, CA 91604 (the "Property"). The Action is brought pursuant to the Narcotics Abatement Act ("NAL"), California Health and Safety Code section 11570, et seq.

1 2. The Property, recently fortified with metal gates and video surveillance cameras,
2 and located in the Los Angeles Police Department's ("LAPD") North Hollywood Division, has
3 been, and continues to be, a narcotics nuisance where steady streams of drug users and
4 buyers congregate to use, store, and sell drugs, at all hours of the day and night. The
5 Property has, and continues to have, a well-known reputation in the surrounding community
6 and with the LAPD as a prominent narcotics location.

7 3. During the past two years, law enforcement has made 13 narcotics-related
8 arrests at the Property and served a narcotics search warrant at the Property on December 9,
9 2016, where heroin and methamphetamine was recovered. During the service of the search
10 warrant, officers observed more than a hundred used syringes strewn about the Property.
11 The most recent narcotics-related arrest occurred on August 17, 2018. During a search of the
12 back house on the Property, LAPD officers recovered heroin (with some of the heroin pre-
13 packaged in individual baggies), methamphetamine, two digital scales, numerous plastic
14 baggies, a notebook containing lists of detailed drug prices and pay and owe amounts, and a
15 large amount of U.S. currency (\$3,056). Officers observed two surveillance system monitors
16 inside the back house which connected to the video cameras monitoring entry onto the
17 Property.¹ Defendant and back house resident JARED JASON LERNER ("Defendant" or
18 "Defendant LERNER") was arrested for maintaining a residence for the purpose of selling
19 narcotics. Two women were also arrested at the Property for possession of a controlled
20 substance for sales and possession of methamphetamine.

21 4. Defendant GERALDINE SCHOENFELD ("Defendant" or "Defendant
22 SCHOENFELD") has owned the Property since at least 1999, and most recently as trustee of
23 the Albert and Geraldine G. Schoenfeld trust dated July 23, 2012 ("Schoenfeld Trust").
24 Trustee Albert Schoenfeld died in 2013, leaving Defendant SCHOENFELD as the sole
25 trustee. Defendant SCHOENFELD lives in the main house on the Property. Defendant
26 SCHOENFELD'S son, Defendant LERNER, has lived in the back detached house on the
27 Property since at least December 2016. Defendant LERNER is one of the primary individuals
28

¹ Such systems are typically used for counter surveillance purposes such as detecting law enforcement.

1 responsible for the narcotics activity occurring at the Property and has been arrested seven
2 times at the Property for narcotics-related offenses since December of 2016.

3 5. On March 31, 2017, Los Angeles Deputy City Attorney Jennifer Varela and a
4 narcotics investigator from the Los Angeles Interagency Metropolitan Police Apprehension
5 Crime Task Force met with the Defendants to inform them of the narcotics nuisance activity
6 occurring on the Property, as well as the legal nuisance abatement process that might be
7 initiated if the narcotics activity at the Property did not stop. At that meeting, Defendant
8 SCHOENFELD stated that Defendant LERNER was going to be moving out of the back
9 house on the Property in approximately a month into an apartment in west Los Angeles.
10 Since this meeting the narcotics activity has increased and Defendant Lerner is still residing in
11 the back house on the Property.

12 6. Plaintiff is filing this lawsuit in an effort to protect public safety. The people in
13 the surrounding area cannot be expected to perpetually endure this ongoing narcotics
14 nuisance activity. The nuisance abatement prosecution is intended to bring the unacceptable
15 state of affairs at the Property to a halt; to make the Property inhospitable to the drug dealers,
16 buyers, and users who now freely use it to deal and use narcotics; and to make the Property
17 safe for people in the area.

18 II. THE PARTIES AND THE PROPERTY

19 A. Plaintiff

20 7. Plaintiff, the People, is the sovereign power of the State of California designated
21 in California Health and Safety Code section 11571, to be the complaining party in actions
22 brought to abate, enjoin, and penalize public narcotics nuisances.

23 B. The Defendants

24 8. Defendant SCHOENFELD, age 80, has owned the Property since at least
25 February 2, 1999, and most recently as a trustee of the Albert and Geraldine G. Schoenfeld
26 trust dated July 23, 2012. Defendant SCHOENFELD resides in the main house on the
27 Property and has done so at all times relevant to this Action.

1 9. Plaintiff names Defendant SCHOENFELD in this Action reluctantly, due to her
2 age, and that the 2017 meeting held by the City Attorney and law enforcement with Defendant
3 SCHOENFELD did not result in her abating the nuisance at the Property. Defendant
4 SCHOENFELD is either unable or unwilling to abate the nuisance activity occurring at the
5 Property and under the laws of the state of California described herein, she is ultimately
6 responsible as the owner of the Property for the nuisance activity.

7 10. Defendant LERNER is the 48-year-old son of Defendant SCHOENFELD and
8 has been residing in the back house on the Property since at least December of 2016.
9 Defendant LERNER is directly responsible for the narcotics nuisance activity occurring at the
10 Property. Defendant LERNER has multiple convictions and arrests, primarily for drug related
11 offenses dating back to 2004. Defendant LERNER is currently on summary probation with
12 active search and seizure conditions until March of 2021 for possession of narcotics.

13 11. The true names and capacities of defendants sued herein as Does 1 through
14 50, inclusive, are unknown to Plaintiff, who therefore sues said defendants by such fictitious
15 names. When the true names and capacities of said defendants have been ascertained,
16 Plaintiff will seek leave of Court to amend this complaint and to insert in lieu of such fictitious
17 names the true names and capacities of said fictitiously named defendants.

18 **C. The Property**

19 12. The Property is a single-family residence located at the commonly known
20 address of 11933 Ashdale Lane, Studio City, CA 91604.² It is an approximately two bedroom,
21 three bathroom, 3,371 square foot home, with a back detached one bedroom guest house.
22 The Property is located in a quiet residential neighborhood. Within the past year, multiple
23 video cameras and metal gates and fences have been installed around the perimeter of the
24 Property.

25
26
27 ² The Property's legal description is "That portion of Lot 1 in Section 31, Township 1 North, Range 14 West, San
28 Bernardino Meridan, in the City of Los Angeles, in the County of Los Angeles, State of California, beginning at a
point in the Southwesterly line of Lot 15 of Tract No. 12594, as shown on Map recorded in Book 325, Pages 24
to 34 of Maps, in the Office of the County Recorder of Said County," with Assessor's Parcel Number 2382-006-
005.

III. THE NARCOTICS ABATEMENT LAW

13. The abatement of a nuisance is a long-established and well-recognized exercise of the state's police power. (*People v. Barbieri* (1917) 33 Cal.App. 770, 775; *People ex rel. Hicks v. Sarong Gals* (1974) 42 Cal.App.3d 556, 563.) Since its enactment in 1972, the principal purpose of the NAL (Health & Saf. Code, § 11570, *et seq.*) is the abatement of buildings and places "used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specified in this division" (Health & Saf. Code, § 11570).

14. The NAL provides that every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog *inter alia*, "is a nuisance which **shall** be enjoined, abated, and prevented . . . whether it is a public or private nuisance." (Health & Saf. Code, § 11570 (emphasis added); *People ex rel Lungren v. Peron* (1997) 59 Cal.App.4th 1383, 1389; *Lew v. Superior Court* (1993) 20 Cal.App.4th 866, 870-871.)

15. Health and Safety Code section 11571 authorizes a city attorney to bring an action to abate, prevent and perpetually enjoin such nuisances. It provides in relevant part: "Whenever there is reason to believe that a nuisance as described in Section 11570 is kept, maintained, or exists in any county, the district attorney of the county, or the city attorney of any incorporated city or of any city and county, in the name of the people, may . . . maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place in or upon which the nuisance exists from directly or indirectly maintaining or permitting the nuisance."

16. Health and Safety Code section 11573(a) provides that: "If the existence of the nuisance is shown in the action to the satisfaction of the court or judge, either by verified complaint or affidavit, the court or judge **shall** allow a temporary restraining order or injunction to abate and prevent the continuance or recurrence of the nuisance." (Emphasis added.) In addition, Health and Safety Code section 11581 provides, as an additional remedy, for the removal and sale of all fixtures and movable property on the premises used in aiding or

1 abetting the nuisance and for the closure of the building for up to one year.

2 **IV. CAUSE OF ACTION FOR NARCOTICS ABATEMENT**

3 **[Health and Safety Code Section 11570, *et seq.* --**

4 **Against Defendants and DOES 1 through 50]**

5 17. Plaintiff hereby incorporates by reference paragraphs 1 through 16 of this
6 Complaint and makes them part of the Cause of Action, as if fully set forth herein.

7 18. On a continuous and ongoing basis, from an exact date unknown, but since at
8 least December 2016, the Property has been and is *currently* being used for the purposes of
9 unlawfully selling, serving, storing, keeping, manufacturing or giving away controlled
10 substances in violation of Health and Safety Code section 11570, *et seq.* Steady streams of
11 drug users and buyers congregate at the Property to use, store, and sell narcotics.

12 19. Defendants, and Does 1 through 50, are responsible for conducting,
13 maintaining, and/or directly or indirectly permitting the nuisance as alleged herein. Plaintiff
14 has no plain, speedy and adequate remedy at law, and unless Defendants, and Does 1
15 through 50, are restrained and enjoined by order of this Court, they will continue to use,
16 occupy and maintain, and/or to aid, abet or permit, directly or indirectly, the use, occupation
17 and maintenance of the Property, together with the fixtures and appurtenances located
18 therein, for the nuisance complained of herein, to the great and irreparable damage of the
19 public and in violation of California law.

20 **PRAYER**

21 **WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ORDER, ADJUDGE AND**
22 **DECREE AS FOLLOWS:**

23 1. That Defendants, Does 1 through 50, and the Property, be declared in violation
24 of Health and Safety Code section 11570, *et seq.*

25 2. That the Property, together with the fixtures and moveable property therein and
26 thereon, be found to constitute a public nuisance and be permanently abated as such in
27 accordance with Section 11581 of the California Health and Safety Code.

1 3. That the Court grant a preliminary injunction, permanent injunction and order of
2 abatement in accordance with Section 11570, *et. seq.*, of the California Health and Safety
3 Code, enjoining and restraining each Defendant and their agents, officers, employees and
4 anyone acting on their behalf, from unlawfully selling, serving, storing, keeping,
5 manufacturing, or giving away controlled substances on the Property, and/or directly or
6 indirectly maintaining or permitting such nuisance activity.

7 4. That the Court order physical and managerial improvements to the Property in
8 accordance with California Health and Safety Code section 11573.5, and such orders as are
9 otherwise appropriate, to remedy the nuisance on the Property and enhance the abatement
10 process, including but not limited to, a prohibition on Defendant LERNER'S presence at or
11 within 1000 feet of the Property at any time, for any reason; prohibiting known narcotics users
12 and dealers from accessing the Property; and strict limitations on who else may be present on
13 the Property at all times.

14 5. That as part of the Judgment, an Order of Abatement be issued, and that the
15 Property be closed for a period of one year, not to be used for any purpose, and be under the
16 control and custody of this Court for said period of time; or, in the alternative, if the Court
17 deems such closure to be unduly harmful to the community, that Defendants, and Does 1
18 through 50, pay an amount of damages equal to the fair market rental value of the Property
19 for one year to the City or County in whose jurisdiction the nuisance is located in accordance
20 with Health and Safety Code section 11581 subdivision (c)(1).

21 6. That Defendants, and Does 1 through 50, each be assessed a civil penalty in an
22 amount not to exceed twenty-five thousand dollars (\$25,000.00).

23 7. That all fixtures and moveable property used in conducting, maintaining, aiding or
24 abetting the nuisance at the Property be removed by the LAPD and sold in the manner
25 provided for the sale of chattels under execution. Said fixtures and property shall be
26 inventoried and a list prepared and filed with this Court.

27 8. That there shall be excepted from said sale, such property to which title is
28 established in some third party not a defendant, nor agent, officer, employee or servant of any

1 defendant in this proceeding.

2 9. That the proceeds from said sale be deposited with this Court for payment of the
3 fees and costs of sale. Such costs may occur in closing said property and keeping it closed,
4 removal of said property, and Plaintiff's costs in the Action, including attorneys' fees, and such
5 other costs as the Court shall deem proper.

6 10. That if the proceeds of the sale do not fully discharge all such costs, fees and
7 allowances, the Property shall also be sold under execution issued upon the order of the
8 Court or judge and the proceeds of such sale shall be applied in a like manner. That any
9 excess monies remaining after payment of approved costs shall be delivered to the owner of
10 said property. Ownership shall be established to the satisfaction of this Court.

11 11. That Defendants, Does 1 through 50, and any agents, trustees, officers,
12 employees and anyone acting on their behalf, and their heirs and assignees, be perpetually
13 enjoined from transferring, conveying, or encumbering any portion of the Property, for
14 consideration or otherwise, without first obtaining the Court's prior approval.

15 12. That Defendants, and Does 1 through 50, be ordered to immediately notify any
16 transferees, purchasers, commercial lessees, or other successors in interest to the subject
17 Property of the existence and application of any temporary restraining order, preliminary
18 injunction, or permanent injunction to all prospective transferees, purchasers, commercial
19 lessees, or other successors in interest, *before* entering into any agreement to sell, lease or
20 transfer the Property, for consideration or otherwise, all or any portion of the Property that is
21 the subject of this Action.

22 13. That Defendants, and Does 1 through 50, be ordered to immediately give a
23 complete, legible copy of any temporary restraining order and preliminary and permanent
24 injunctions to all prospective transferees, purchasers, lessees, or other successors in interest
25 to the Property.

26 14. That Defendants, and Does 1 through 50, be ordered to immediately request and
27 procure signatures from all prospective transferees, purchasers, lessees, or other successors
28 in interest to the subject Property, which acknowledges his/her respective receipt of a

1 complete, legible copy of any temporary restraining order, preliminary and permanent
2 injunction, at least 30 days prior to the close of escrow, and deliver a copy of such
3 acknowledgment to the Los Angeles City Attorney's Office, c/o Deputy City Attorney Jennifer
4 Varela or her designee.

5 15. That Plaintiff recover the costs of this Action, including law enforcement
6 investigative costs and any fees, including attorneys' fees, authorized by law, not to exceed
7 \$1,000,000.00, from Defendants and Does 1 through 50.

8 16. That Plaintiff recover the amount of the filing fees and the amount of the fee for
9 the service of process or notices which would have been paid but for Government Code
10 section 6103.5, designating it as such. The fees may, at the Court's discretion, include the
11 amount of the fees for certifying and preparing transcripts.

12 17. That Plaintiff be granted such other and further relief as the Court deems just
13 and proper.

14 DATED: August 30, 2018

Respectfully submitted,

15
16 MICHAEL N. FEUER, City Attorney
JONATHAN CRISTALL, Supervising Assist. City Attorney

17
18 By: 

19 JENNIFER VARELA, Deputy City Attorney
20 Attorneys for Plaintiff, THE PEOPLE OF THE STATE
21 OF CALIFORNIA
22
23
24
25
26
27
28